

House Bill 205

I am here today to hopefully offer some insight into how that Controlled Ground Water Areas if implemented could have affected me.

My property was on the border of this proposed Smith Valley Controlled Ground Water Area and the only thing that separated my property from this intrusion was a barbed wire fence. This monster encompassed 6000 plus acres of private property to be held hostage by opinions and concerns, with no scientific data or facts to support a petition filed by 54 people in Smith Valley.

The petitioners as demonstrated by their letter dated October 28, 2004 are requesting by their own admissions a blank check to encumber even more property if the boundaries were not satisfactory to them. Attached is the correspondence to DNRC from the petitioners regarding this concern this is now being submitted to you with highlighted references.


I believe that this bill will insert a fair practice for those that would be most affected by this action by having a voice in this process of implementation. As the law now stands the people that would be affected have none. This bill does not take away the right of another to protect their water rights it simply offers order and accountability to the process of implementing a Controlled Ground Water Area.

It is my understanding that the laws we now have in place regarding this issue have not been addressed since the 60's. This process may have worked then but the population of the Flathead Valley has increased substantially and this equation of 20 or one fourth of water users no longer should apply in the petition process for implementation. Growth changes statistics and 51% is fair and appropriate in the year 2007.

Our democratic process is structured on a majority vote not a minority vote. Everyone here was elected by the majority now why would you deny a landowner the same personal right.

This bill is not just about property rights its brings about fairness, accountability and common sense.

I urge you to vote yes on HB205.

Thank you,
Gina Klempek 
1484 Ashley Lake Road
Kalispell, Mt. 59901
3-19-07

568 Batavia Lane
Kalispell, MT 59901

RECEIVED

October 26, 2004

OCT 28 2004

Kurt Hafferman, Manager
DNRC Water Resources, Kalispell Regional Office
109 Cooperative Way, Suite 110
Kalispell, Montana 59901

MONTANA D.N.R.C.
KALISPELL REGIONAL OFFICE

Re: Response to DNRC letter dated Oct 20, 2004

Encl: (1) Revised CGA Petition dtd Oct 26, 2004, (2) Maps-3, (3) Revised Land Ownership list, (4) Hydrologic Report June 2004 through Appendix E, (5) John Herrin - MDEQ email concerning Batavia area aquifer, (6) Subdivision approval letter with water restrictions, (7) Gibson/Cherokee well log #4. (8) Additional signatures

Dear Mr. Hafferman,

In response to your letter dated October 20, 2004, I would like to address the following areas of deficiency in the CGA petition:

Part 2 - Type of Designation

We, the petitioners, would like to submit a revision on Part 2. Thanks to input from our neighbors with Private Property Rights at Risk, we have identified a misunderstanding that we would like to correct. Staying with our purpose of protecting existing water rights and clarifying that "no new wells" was never our intent, we would like Part 2 to be reworded as follows:

To protect existing water rights and prevent further harm to existing water users and water right holders in the Smith Valley CGA, Petitioners are requesting closure of the identified area to further appropriation of groundwater unless a permit is issued by DNRC with the exception for replacement wells. In short, we request all new wells be authorized "by permit process only" with the exception for replacement wells until a time when/if DNRC can document specific areas where an unlimited water supply is available. At such a time, we request that the CGA boundaries be changed accordingly. Likewise, if groundwater over appropriation signs are found in areas outside the current CGA boundaries, the petitioners request the CGA boundaries be broadened accordingly.

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Lisa Klomp
3-19-02

Further, we request that new groundwater appropriators in the area must first apply to the Department's Kalispell Water Resources Regional Office and obtain a license for drilling and testing purposes conditioned to allow the applicant and DNRC to gather data and information necessary for completing the application for permit. The license may be conditioned to require 5-day advance notice of drilling to the Department's Hydrogeologist to ensure adequate logging of appropriate lithologic, water chemistry, water level, aquifer test and well construction data.

Part 3 – Maps

- A. Attached are three maps (CGA, Geologic and Potentiometric) with TRS descriptions, range lines, section numbers and points of diversion for all groundwater users.
- B. Water users' points of diversion are identified on the CGA map in accordance with the Montana Natural Resources Information Center website (with a link to the Montana Bureau of Mines and Geology Groundwater Information Center) <http://nris.state.mt.us/mapper>
- C. **The Petitioners request that ALL aquifers within the CGA boundaries be protected from the surface down.**
- D. Digital map data is not available to petitioners.
- E. Petitioners would like to correct the boundary explanation of T28N R22W Section 16 in the petition to agree with the CGA boundary markings on the CGA map.

Removed: T28N R22W Sections 16 - north border is Morningview Lane, southeast border is Hwy 2W

Replaced with: T28N R22W Sections 16 – western half, south border is Hwy 2W

Part 4 – Land Ownership

Due to the corrections to T28N R22W Sections 16 boundaries, Appendix J – Land Ownership list needs revised. Enclosed is a revised list as of October 26, 2004.

Appendix C Pump Test Data

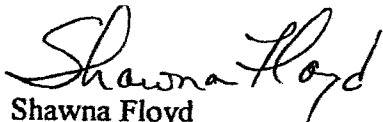
Petitioners submit new information to Appendix C.

- a. Aquifer testing data is submitted in a Hydrologic Report by Schwarz Engineering June 2004. Cover page through Appendix E is submitted. Testing data is from May 12 and 17, 2004 pump tests with on and offsite monitoring. These tests were suppose to last 72 hours but were terminated very early.
- b. MDEQ email comments by John Herrin concerning the Batavia area aquifer and
- c. MDEQ subdivision approval letter with water restrictions
- d. Gibson/Cherokee well log #4

Revision dated Oct 26, 2004 will be provided to all petitioners for their review and approval.

In order to facilitate an orderly and efficient system of accountability for all pages of this large petition package, each appendix attachment will be numbered.

Respectfully,



Shawna Floyd

Chair, Batavia-Kienas Homeowners Assn

Cc: Jack Stults, DNRC Water Resources, Division Administration
Teri McLaughlin, Interim Water Rights Bureau Chief
Jan Langel, DNRC Water Resources Specialist
Tim Hall, DNRC Chief Legal Council
Kim Overcast, DNRC NA Program Manager